

## **BILL ANALYSIS**

Senate Research Center

H.B. 511  
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Business & Commerce  
7/21/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Rebates are an increasingly popular method of enticing customers to buy something new. Often, the promised rebate amount equals as much as two-thirds of the original price, which, in the case of computers, can be hundreds of dollars. While many rebate programs work well, some companies do not meet their obligations. In fact, some customers never receive a response to their rebate request. Most companies promise to process the request in eight to 10 weeks; however, existing state law does not provide any remedy when the consumer does not receive any response or the rebate is denied after the rebate program has ended. Texas law is silent in regards to the timeliness of rebates. Currently, the only option for the frustrated consumer is lodging a complaint with the Better Business Bureau or the attorney general.

H.B. 511 requires the company to mail the rebate or electronically pay the consumer within the promised time period of receiving a rebate request. If the request is not correctly completed, the company must either pay the rebate or notify the consumer of any errors. The measure also provides the consumer an additional 30 days to correct and resubmit the request for processing.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.43, as follows:

Sec. 35.43. CONSUMER REBATE RESPONSE AND GRACE PERIOD FOR CORRECTIONS. (a) Defines "consumer," "consumer rebate," and "properly completed."

(b) Requires a person, including a manufacturer or retailer, who offers a rebate, except as provided by Subsection (c), to mail the amount of the

rebate to the consumer or electronically pay the consumer the amount of the rebate within the time period promised in the rebate information provided to the consumer, or if silent, not later than the 30th day after the date the person receives a properly completed rebate request.

(c) Provides that, if a consumer rebate offer is contingent on the consumer continuing to purchase a service for a minimum length of time, the time period in Subsection (b) begins on the later of the date the consumer submits the rebate request or the expiration date of the service period.

(d) Requires the person offering the rebate, if the person receives a rebate request that is timely submitted but not properly completed, to process the rebate in the manner provided by Subsection (b) as if the rebate request were properly completed or notify the consumer, not later than the date specified by Subsection (b), of the reasons that the rebate request is not properly completed and the consumer's right to correct the deficiency within 30 days after the date of the notification.

(e) Requires the notification under Subsection (d) to be by mail, except that notification may be by e-mail if the consumer has agreed to be notified by e-mail.

(f) Requires the person, if the consumer corrects the deficiency stated in the notification under Subsection (d) before the 31st day after the postmark date of the person's mailed notification to the consumer or the date the e-mail is received, if applicable, to process the rebate in the manner provided by Subsection (b) for a properly completed request.

(g) Provides that this section does not impose any obligation on a person to pay a rebate to any consumer who is not eligible under the terms and conditions of the rebate offer or has not satisfied all of the terms and conditions of the rebate offer, if the person offering the rebate has complied with Subsections (b) and (d).

(h) Provides that a person offering a rebate has the right to reject a rebate request from a consumer who the person determines is attempting to commit fraud, has already received the offered rebate, or is submitting proof of purchase that is not legitimate.

(i) Requires a person making a determination under Subsection (h) to notify the consumer within the time period provided by Subsection (d) that the person is considering rejecting, or has rejected, the rebate request and to instruct the consumer of any actions that the consumer may take to cure the deficiency.

(j) Requires the person offering the rebate, if the person erroneously rejects a properly completed rebate request, to pay the consumer as soon as practicable, but not later than 30 days, after the date the person learns of the error.

(k) Provides that, for the purposes of this section, if a person who offers a rebate uses an independent entity to process the rebate, an act of the entity is considered to be an act of the person and receipt of a rebate request by the entity is considered receipt of the request by the person.

(l) Provides that a violation of this section is a deceptive trade practice in addition to the practices described by Subchapter E, Chapter 17, and is actionable under that subchapter.

SECTION 2. Effective date: September 1, 2005.